

HARRIS BEACH ^{PLC}
ATTORNEYS AT LAW

June 28, 2024

Via CM/ECF and E-Mail

United States District Judge Katherin Polk Failla
United States District Court for the Southern District
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RE: **Wilburt Perez vs. Michael J. Martino and Jonas Bronck Housing Co.,
Case No. 23-cv-00193**

MEMO ENDORSED

Dear Judge Failla:

As you are aware, our office represents the Defendants, Michael J. Martino and Jonas Bronck Housing Co. (hereinafter “Defendants”) in reference to the above matter. This correspondence is being submitted in response to the Plaintiff’s counsel’s submission of Today’s date. I am quite shocked and, dismayed, at Plaintiff’s counsel’s continual misrepresentations to this Court and the conduct of Plaintiff’s counsel during course of this litigation.

As this Court is aware, on multiple occasions Plaintiff’s counsel failed to appear for Court Conferences, thereby wasting the Court’s time and my clients’ resources. Today, Plaintiff’s Counsel, once again, submitted documents in violation of this Court’s rules and more shockingly, once again, made material misrepresentations to this Court.

The Plaintiff’s counsel is well aware that my Clients’ intend to file a dispositive motion in this matter. More directly, Plaintiff’s counsel failed to connect with my office concerning Today’s submission and, instead sent an email this morning laying out a discovery plan as if no dispositive motion practice will take place.

Immediately, upon receiving Plaintiff’s counsel’s correspondence I wrote to Plaintiff’s counsel advising, once again, that our office would be filing a dispositive motion and we would provide initial disclosures within 30 days and ask this Court for very limited discovery pending the dispositive motion.

Plaintiff’s counsel replied with a request to meet and confer which my office promptly accepted and scheduled for 3pm today. Thereafter, Plaintiff’s counsel submitted correspondence falsely stating that Defendant refused to participate in the drafting of the discovery plan and submitted the very plan that our office advised was unacceptable. Plaintiff’s counsel blatantly misrepresented the facts to this court, again, and refused to fulfil his obligations and responsibilities to meet and confer confirming same, even after a meet and confer was scheduled. Needless to say, Plaintiff’s counsel failed to appear for a meet and confer.

Plaintiff’s counsel’s action are preposterous and beyond the dignity of any attorney admitted to practice before this Court. On behalf of the Defendants we respectfully request a stay of discovery pending an expedited dispositive motion process. Defendants wish to submit their

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dispositive motion on or before July 24, 2024. If necessary, our office can file a formal motion for a stay of discovery.

We sincerely apologize for the continual need to involve the Court in these rudimentary matters, however the continual misrepresentations filed by Plaintiff's counsel cannot go unnoticed.

We are hopeful, Plaintiff's counsel will proceed within the bounds of the Federal Rules, the Rules of this Court and decency to ensure the procession of this litigation. As always, if the Court has any questions, our office can coordinate a conference of the parties.

Respectfully submitted,

HARRIS BEACH PLLC
Attorneys for the Defendants

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The Court is in receipt of Plaintiff's proposed case management plan and scheduling order (Dkt. #35) and Defendants' above letter (Dkt. #36).

The Court is disappointed in counsels' apparent inability to cooperate for the purposes of preparing routine submissions to the Court. The Court hereby ORDERS the parties to meet and confer and submit a **joint** letter on or before **July 15, 2024**, setting forth an agreed-upon scope and schedule for expedited discovery in anticipation of dispositive motion practice. Such plan shall also included proposed dates for the briefing on Defendants' anticipated motion.

The Clerk of Court is directed to terminate the pending motion at docket entry 36.

SO ORDERED.

Dated: July 1, 2024
New York, New York



HON. KATHERINE POLK FAILLA
UNITED STATES DISTRICT JUDGE